

In the Matter of Police Sergeant Promotional Lists
CSC Docket No. 2012-461
(Civil Service Commission, decided August 17, 2011)

The Division of Selection Services (Selection Services) requests that *N.J.A.C. 4A:4-2.6(a)2* be relaxed to allow the November 30, 2010 closing date for certain promotional examinations for Police Sergeant to be extended to November 30, 2011.

By way of background, on September 1, 2010, this agency issued over 40 promotional announcements¹ for the level of Police Sergeant, with a closing date of November 30, 2010. Applicants needed to possess three years of continuous permanent service in the title of Police Officer as of the closing date. Further, the State of New Jersey and this agency have been in litigation with the United States Department of Justice (USDOJ) with regard to the selection process utilized by the State since 2000 for promotion to the level of Police Sergeant. Due to this litigation and the discussions held with representatives of the USDOJ, the testing process has been significantly delayed. However, the parties have recently agreed to the terms of a settlement which will take the form of Consent Decree. As a result, the examination for the 2010 Police Sergeant announcements has not yet been held. Moreover, on September 1, 2011, this agency will announce promotional examinations for Police Sergeant for over 50 additional jurisdictions, with a closing date of November 30, 2011.

Selection Services indicates that due to the delay in holding the examination, there are a number of Police Officers in the jurisdictions, whose promotional tests were announced in 2010, who would now be eligible for the examination. Therefore, it wishes to issue amended announcements for those jurisdictions. However, *N.J.A.C. 4A:4-2.6(a)2* provides that if a promotional examination announcement is amended, all requirements must be met by the announced closing date whether or not the application filing date is changed. Selection Services requests that this requirement be relaxed to allow applicants, who would meet the announced requirements as of November 30, 2011, to apply for the 2010 announcements. Selection Services indicates that this rule relaxation would also allow any individual, whose application was deemed late for the 2010 announcements, to apply again. Further Selection Services indicates that the new application filing date will be September 21, 2011, consistent with the 2011 announcements.

¹ Four jurisdictions had their examinations cancelled since no applicants applied and four other jurisdictions had less than three applicants apply for the examinations.

CONCLUSION

N.J.A.C. 4A:4-2.6 provides, in part:

- (a) Applicants for promotional examinations shall meet all of the following criteria by the announced closing date:
 - 1. Have one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. Aggregate service shall be calculated in the same manner as seniority as set forth in *N.J.A.C.* 4A:4-2.15;
 - 2. Be currently serving in the announced unit scope in a title to which the examination is open and meet all other requirements contained in the announcement. If an examination announcement is amended, all requirements must be met by the announced closing date whether or not the application filing date is changed;

Initially, consistent with Civil Service law and rules, Selection Services can amend an application filing date for an examination. However, the closing date cannot be changed. Accordingly, in the instant matter, Selection Services requests that *N.J.A.C.* 4A:4-2.6(a)2 be relaxed to allow it to amend the closing date of the 2010 announcements for the promotional examination for Police Sergeant to November 30, 2011. Specifically, it argues that due to discussions with the DOJ regarding litigation on the Police Sergeant examination, it has been unable to hold the promotional examination for the 2010 Police Sergeant announcements. It also notes that there are additional employees in those jurisdictions who would meet the announced requirement of three years of continuous permanent service in the title of Police Officer if the closing date was amended to November 30, 2011. The Commission generally supports the inclusion of having as many applicants as possible be eligible to take an examination which is consistent with the basic tenets of Civil Service to maximize the opportunities to make appointments based on merit and fitness. *See New Jersey Constitution*, Article VII, sec. 1, par. 2 and *N.J.S.A.* 11A:1-2(a). *See also, O'Malley v. Department of Energy*, 109 N.J. 309, 316 (1987) (“[T]he legislative goal of appointments based on merit and fitness is the paramount consideration”). An amended closing date will increase the number of eligibles and encourage competition. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular situation. Therefore, under these circumstances, good cause exists to relax the provisions of *N.J.A.C.* 4A:4-2.6(a)2 and allow Selection Services to amend the closing date of the 2010 announcements to November 30, 2011.

ORDER

Therefore, it is ordered that this request be granted and amended announcements be issued with application filing dates of September 21, 2011 and closing dates of November 30, 2011.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.